



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

BY FACSIMILE

June 7, 1995

Mr. Frank Bachman
Montrose Chemical Corporation of California
55 Corporate Drive
Trumbull, CT 06611

Re: Montrose Chemical CERCLA NPL Site - Issuance of
Unilateral CERCLA Administrative Order No. 95-18

Dear Mr. Bachman:

By correspondence dated May 25, 1995 the United States Environmental Protection Agency (EPA) requested that Montrose Chemical Corporation of California (Montrose) voluntarily agree to conduct a portion of the Montrose Chemical CERCLA NPL Site removal action authorized by EPA on March 29, 1995. Specifically, EPA requested that Montrose agree to arrange for the proper excavation, treatment and disposal of the DDT contaminated soil remaining at the Montrose CERCLA Removal Site.

On June 2, 1995, counsel for Montrose informed EPA, by letter, that Montrose declined to voluntarily undertake the requested portion of the removal action as set out in the EPA letter of May 25, 1995.

Consequently, EPA, pursuant to section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9606(a), has today issued a unilateral administrative order to Montrose requiring that Montrose arrange for the proper excavation, treatment and disposal of the remaining DDT contaminated soil. A copy of the Unilateral Administrative Order, U.S. EPA CERCLA Docket No. 95-18, is included as an attachment to this letter.

In accordance with Section XIV. of the Order, Montrose may request a conference with EPA. Any such request must be made within two calendar days after the issuance of the Order. The conference must be held within seven days after the date on which the Order was issued.

Frank Bachman
June 7, 1995
Page 2

The Order becomes effective at 5 p.m. on Friday June 9, 1995. If Montrose requests a conference pursuant to Section XIV. of the Order, the Order will become effective on the calendar day following the EPA/Montrose conference.

Questions concerning the work required by the Order should be directed to Jim Vreeland, the EPA On-Scene Coordinator for this removal action, at (415) 744-2395. Legal matters should be directed to me at (415) 744-1312.

Sincerely,



John J. Lyons
Assistant Regional Counsel

ATTACHMENT: U.S. EPA UNILATERAL ADMINISTRATIVE ORDER, CERCLA DOCKET
No. 95-18 (Issued June 7, 1995)

cc: Frank Bachman (additional copy by Federal Express delivery)
Mr. Karl Lytz, Latham & Watkins (By Facsimile)

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3 UNITED STATES
4 ENVIRONMENTAL PROTECTION AGENCY
5 REGION 9
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8 IN THE MATTER OF:) UNILATERAL ADMINISTRATIVE
9) ORDER FOR REMOVAL RESPONSE
10 MONTROSE CHEMICAL NPL SITE) ACTIVITIES
11 LOS ANGELES COUNTY, CA)
12) U.S. EPA Region 9
13) CERCLA DOCKET No. 95-18
14 MONTROSE CHEMICAL CORPORATION)
15 OF CALIFORNIA INC.,)
16) Proceeding Under Section
17 RESPONDENT) 106(a) of the Comprehensive
18) Environmental Response,
19) Compensation, and Liability
20) Act, as amended, 42 U.S.C.
21) §9606(a)
22
23

24 I. JURISDICTION AND GENERAL PROVISIONS
25

26 This Order is issued pursuant to the authority vested in the
27 President of the United States by section 106(a) of the
28 Comprehensive Environmental Response, Compensation, and Liability

1 Act of 1980, 42 U.S.C. § 9606(a), as amended (CERCLA), and
2 delegated to the Administrator of the United States Environmental
3 Protection Agency (EPA) by Executive Order no. 12580, January 23,
4 1987, 52 Federal Register 2923, further delegated to the Regional
5 Administrators by EPA Delegation Nos. 14-14-A and 14-14-B, and
6 further delegated to the Region 9 Director of the Hazardous Waste
7 Management Division by Region 9 Delegation No. R1290.43.

8
9 EPA has notified the State of California of this action pursuant to
10 section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

11
12 **II. PARTIES BOUND**

13
14 This Order applies to and is binding upon Respondent and
15 Respondent's directors, officers, employees, agents, successors and
16 assigns. Any change in ownership or corporate status of Respondent
17 including but not limited to any transfer of assets or real or
18 personal property shall in no way alter Respondent's
19 responsibilities under this Order.

20
21 Respondent shall ensure that its contractors, subcontractors, and
22 representatives receive a copy of this Order and comply with this
23 Order. Respondent shall be responsible for any non-compliance with
24 this Order.

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The thirteen acre parcel at 20201 Normandie Avenue in Los Angeles County, California (which is the location of the former Montrose Chemical Corporation of California DDT production and formulation plant); the real property at 1401 West Del Amo Boulevard, Los Angeles County, California owned by Jones Chemicals, Inc.; soil and groundwater at and in the vicinity of 20201 Normandie Avenue that has been impacted by the release, including but not limited to the past disposal or discharge, of hazardous substances from Respondent's DDT production and formulation plant; portions of the adjacent LACSD District 5 Interceptor and J.O. "D" sanitary sewer lines; that portion of the LADWP Right of Way adjacent to the 20201 Normandie Avenue Property; those portions of the Normandie Avenue ditch adjacent to and south of 20201 Normandie Avenue; the Kenwood Drain; the Torrance Lateral; the Dominguez Channel (from Laguna Dominguez to Consolidated Slip); and Consolidated Slip in Los Angeles Harbor.

3

1 1059, 1055, 1051, 1043, 1043.5, 1041, 1041.5, 1039 and 1039.5 204th
2 Street, Torrance, California. The Montrose CERCLA Removal Site is
3 part of the Montrose Chemical NPL Site Remedial Investigation Study
4 Area and as such is part of the Montrose Chemical Superfund Site as
5 defined above.

6
7 3. As used in this Order, the term "DDT contaminated soil" shall
8 mean any and all soil present at the Montrose CERCLA Removal Site
9 with total DDT concentrations above 26 parts per million (ppm).

10
11 **IV. FINDINGS OF FACT**
12

13 1. The Montrose Chemical Corporation of California Inc. (Montrose)
14 manufactured the pesticide dichlorodiphenyltrichloroethane (DDT) at
15 20201 Normandie Avenue in Los Angeles County, California from 1947
16 until approximately summer 1982. Montrose also conducted DDT
17 grinding and DDT formulation activities at 20201 Normandie Avenue.

18
19 2. During Montrose's operations at 20201 Normandie Avenue, DDT and
20 other hazardous substances such as monochlorobenzene were released
21 from or as a result of the Montrose operations.

22
23 3. EPA has determined that DDT is a probable human carcinogen. In
24 addition, DDT can affect the liver and nervous system. DDT is also
25 toxic to aquatic life and can cause reproductive failure in birds.

26
27 4. EPA placed the Montrose Chemical Superfund Site on the CERCLA
28

1 National Priorities List in 1989.

2
3 5. Since 1985, Montrose has been conducting the CERCLA Remedial
4 Investigation for the Montrose Chemical Superfund Site under an
5 Administrative Order on Consent (# 85-04) with EPA.

6
7 6. The proposed Del Amo Pits NPL site is adjacent to the Montrose
8 Chemical Superfund Site. Shell Oil Company and Dow Chemical
9 Company are conducting the Remedial Investigation for the Del Amo
10 Pits Site under an Administrative Order on Consent with EPA.

11
12 7. In October 1993, as part of the Remedial Investigation for the
13 Del Amo Pits Site, surficial soil sampling was conducted in the
14 residential area situated on the north side of 204th Street in
15 Torrance, California between Normandie Avenue and New Hampshire
16 Avenue. The results of this sampling program indicated that
17 chemicals potentially related to the Del Amo Site, including heavy
18 metals and semi-volatile organic compounds, were not detected in
19 the locations sampled at levels of concern. However, at two
20 residential locations (1055 and 1051 204th Street, Torrance,
21 California) total DDT was detected at elevated levels up to 111
22 parts per million (ppm). These two residential properties are four
23 blocks from the 20201 Normandie Avenue property at which Montrose
24 conducted DDT manufacturing operations.

25
26 8. In January 1994, EPA collected samples of vegetables and
27 chicken eggs raised at 1055 204th Street. The vegetables did not

1 contain significant levels of DDT; however, a composite sample of
2 several chicken eggs was found to contain 0.40 ppm total DDT. The
3 United States Food and Drug Administration prohibits the interstate
4 sale of chicken eggs containing .50 ppm total DDT.

5
6 9. In February 1994, a second round of sampling was performed at
7 1055 and 1051 204th Street to further define the extent of the DDT
8 contamination in surficial soil. Substantial concentrations of
9 total DDT, at levels up to 706 parts per million, were detected in
10 portions of the backyards at these two residential locations.

11
12 10. On March 24, 1994, the EPA Region 9 Hazardous Waste Management
13 Division Director, pursuant to section 104(a) of CERCLA, 42 U.S.C.
14 § 9604(a), authorized a time-critical removal action to excavate
15 and properly dispose of the DDT contaminated soil from 1055 and
16 1051 204th Street. The removal action was authorized based in part
17 on the findings of the Action Memorandum dated March 18, 1994 which
18 read in part:

19
20 There is a direct hazard to the public due to the presence of
21 elevated levels of DDT in the soil in these two backyards.
22 The residents at these two locations may be exposed to
23 the DDT via direct dermal contact, ingestion and inhalation
24 that may occur while they are present in their backyards.
25 Both residences have animals (including dogs, cats and
26 chickens) which may be exposed to the DDT. Additional
27 human exposure may occur as the result of the ingestion

1 of foodstuffs grown or raised in these yards.

2
3 Based on the administrative record for this removal action,
4 EPA, by this action memorandum, is selecting for this
5 removal action the time-critical removal action level at
6 260 ppm total DDT. This corresponds to a carcinogenic risk
7 value of 10^{-4} for DDT and a non-carcinogenic Hazard Index
8 of 10 for DDT (both are approximately 260 ppm based on
9 ingestion of soil by children) (U.S. EPA, Role of Baseline
10 Risk Assessment in Superfund Remedy Selection Decisions,
11 OSWER Dir. 9355.0-30, 4/22/91). EPA for this removal action
12 is also selecting the clean-up goal at 26 ppm total DDT.
13 The clean-up goal corresponds to a carcinogenic risk
14 value of 10^{-5} for DDT and a non-carcinogenic Hazard Index
15 equal to 1 (based on the same risk assessment assumptions used
16 to calculate the time critical removal action level).

17
18 11. During EPA's initial investigation in the winter and spring of
19 1994, one resident of 1055 204th Street reported to EPA a prior
20 incident of becoming violently ill after digging fence post holes
21 in the backyard. EPA believes that the individual in conducting
22 that activity could have come in direct contact, through ingestion
23 or inhalation, with the crystalline DDT chunks that were present in
24 the sub-surface soil at that location.

25
26 12. EPA excavation and related activities at 1051 and 1055 204th
27 Street commenced on April 25, 1994. Additional sample results

1 reported in March 1994 indicated that total DDT was present at
2 depths of at least two feet at concentrations up to 4509 ppm in
3 certain areas of the backyards at 1051 and 1055 204th Street.

4 13. During the initial soil excavation activities in April and May
5 1994, white crystalline deposits (in lumps and chunks) of varying
6 size) were observed by EPA staff in sub-surface fill material at
7 the 1051 and 1055 204th Street. Brick fragments were also present
8 in the fill material. Sample results of the white crystalline
9 material received by EPA on May 11, 1994 indicated that the
10 material was 75.7% total DDT (a copy of these sample results was
11 forwarded to counsel for Respondent on May 11, 1994). Based on
12 this sample result, EPA has since determined that the material was
13 DDT commercial chemical product and was either a formulated DDT
14 product or technical grade DDT. Accordingly, the soil being
15 excavated from the Removal Site has been classified by EPA as a U
16 listed hazardous waste regulated under the Resource Conservation
17 and Recovery Act (RCRA), 42 U.S.C. 6901 et seq. See 40 C.F.R. §
18 261.33(d).

19
20 14. The DDT contaminated soil must be treated as required in Part
21 268 of RCRA, 40 C.F.R. Part 268, prior to disposal in a RCRA
22 permitted land disposal facility.

23
24 15. The EPA On-Scene Coordinator observed these DDT nuggets and
25 chunks throughout the 1500 cubic yards of soil excavated from 1055
26 and 1051 204th Street by EPA in April and May 1994. The DDT ranged
27 in size from the size of a marble nuggets to bowling ball sized

1 chunks of DDT.

2
3 16. In May 1994, EPA continued to follow and excavate the DDT
4 contaminated soil until the excavation reached the property
5 boundaries and approached existing structures on the 1055 and 1051
6 204th Street lots. At that time, EPA decided it was prudent and
7 appropriate to cease excavation activities and initiate additional
8 investigations to determine the full area impacted by the DDT fill
9 material. However, prior to beginning backfilling of the excavated
10 areas at 1055 and 1051 204th Street, the EPA On-Scene Coordinator
11 observed white crystalline DDT deposits and chunks in the northern
12 and eastern faces of the excavation at 1051 204th Street and in the
13 excavation face adjacent to the garage at 1051 204th Street.

14
15 17. Excavation and backfilling activities at 1055 and 1051 204th
16 Street were completed on May 24, 1994.

17
18 18. On June 14, 1994, EPA received additional sample results of a
19 white crystalline chunk removed from 1055 and 1051 204th Street on
20 May 6, 1994. The sample results indicated that the white
21 crystalline material sampled contained 96% DDT. EPA provided a
22 copy of these sample results to Respondent in a June 16, 1994
23 meeting.

24
25 19. Based on analysis of available aerial photographs of the area,
26 EPA believes that the portions of 1055 and 1051 204th Street where
27 EPA excavated the DDT contaminated soil were part of an historical

1 stormwater drainage pathway and that this area was filled with non-
2 native material in one or more episodes between 1953 and 1960.

3
4 20. In June and July 1994, EPA conducted an extensive soil
5 sampling program using a truck mounted geoprobe. Using the
6 geoprobe, EPA collected samples to depths up to 19 feet at forty-
7 nine locations along West 204th Street. The purpose of this effort
8 was to delineate the extent of the remaining fill material
9 containing the DDT. The EPA Action Memorandum Amendment of March
10 28, 1995 summarized the results of this investigation:

11
12 Based on visual observation and analytical work, EPA
13 believes that additional DDT and contaminated fill material
14 exist at 1055 and 1051 west 204th Street. While EPA did
15 not find DDT contaminated fill beyond 1051 and 1055 204th
16 Street, EPA believes that DDT-contaminated fill may be present
17 at 1043, 1043.5, 1041, 1041.5, 1039, 1039.5 and the vacant
18 lot to the west of 1055 West 204th Street. The basis for this
19 belief include: 1) the results from the geoprobe investigation
20 that documents DDT present in the remaining fill at 1051/1055,
21 2) visual observation during the initial removal that
22 documented DDT fill under structures at 1043/1043.5, and
23 3) the results of the geoprobe investigation documenting
24 that fill substantially similar to the fill containing the
25 crystalline DDT found at 1051/1055 may be present in the
26 vacant lot and property behind 1041/1041.5 and 1039/1039.5.

1 21. After an extensive community outreach effort and evaluation of
2 alternative action options, EPA issued an Action Memorandum
3 Amendment (dated March 28, 1995 and signed on March 29, 1995). The
4 Action Memorandum Amendment authorizes the continuation of the
5 time-critical removal action first authorized in March 1994 and
6 specifically authorizes the excavation, treatment and disposal of
7 any additional DDT contaminated soil above 26 ppm DDT from the
8 Montrose CERCLA Removal Site. As discussed in the Action
9 Memorandum Amendment, these actions were determined by EPA to be
10 necessary to protect human health and the environment and abate
11 conditions which may present an imminent and substantial
12 endangerment to public health, welfare or the environment.

13
14 22. In 1990, EPA filed suit in Federal district court against
15 Montrose Chemical Corporation of California, Inc. and others in the
16 action United States v. Montrose (No. CV 90-3122-AAH) to recover,
17 inter alia, all CERCLA response costs incurred by the United States
18 with respect to the Montrose Chemical Superfund Site.

19
20 23. In June, 1994, EPA issued CERCLA Unilateral Administrative
21 Order No. 94-15 to Montrose Chemical Company of California. The
22 Order required Montrose to arrange for the transportation,
23 treatment and disposal of soil excavated by EPA from 1055 and 1051
24 204th Street between May 6, 1994 and the conclusion of excavation
25 activities on May 18, 1994. Montrose Chemical Corporation of
26 California failed to comply with this EPA Order and EPA incurred
27 substantial response costs in arranging for the transportation,

1 treatment and disposal of this DDT contaminated soil in late August
2 1994.

3
4 24. In a letter to Montrose Chemical Corporation of California
5 dated May 25, 1995, EPA requested that Montrose voluntarily agree
6 to arrange for the excavation, transportation, treatment and
7 disposal of the remaining DDT contaminated soil at the Montrose
8 CERCLA Removal Site. By a letter dated June 2, 1995, Montrose
9 Chemical Corporation of California refused to voluntarily undertake
10 the requested actions.

11
12 25. From 1947 to 1982, Montrose manufactured "100%" technical
13 grade DDT at its plant located at 20201 Normandie Avenue, Los
14 Angeles California. This technical grade DDT was produced for sale
15 by Montrose in lump, chip, flake, and powdered forms. From 1947
16 until 1964, Montrose conducted a DDT grinding operation to produce
17 various grades of powdered DDT in Montrose Warehouse Number 1 at
18 the Normandie Avenue plant. Montrose was the only company with
19 technical DDT manufacturing facilities located in California.
20 Montrose also produced formulated DDT products at its 20201
21 Normandie plant, including 75% DDT water dispersable powder.
22 Montrose DDT grinding and formulation operations were the only such
23 operations in the Torrance area. The 20201 Normandie Avenue
24 property at which Montrose manufactured technical grade DDT and
25 formulated DDT products (including 75% DDT wettable powder) is
26 located four blocks from the Montrose CERCLA Removal Site.

1 26. The Final Draft Remedial Investigation Report (Hargis +
2 Associates 1992) indicates that the property at 20201 Normandie
3 Avenue is significantly contaminated by hazardous substances,
4 particularly DDT and monochlorobenzene (a chemical used in the
5 production of DDT).

6
7 27. In the summer of 1983, soil sampling was conducted of a
8 portion of the 20201 Normandie Avenue property by Stauffer Chemical
9 Company Western Research staff. These sample results were not
10 disclosed by Montrose Chemical Corporation of California to EPA
11 until such results were produced by Montrose in response to United
12 States requests for document production in the United States v.
13 Montrose litigation. These sample results indicate that 71% total
14 DDT was detected in one sample and 11% total DDT was detected in
15 another. Of the 48 1983 sample results disclosed by Montrose for
16 the first time in 1994, 41 samples contained DDT in excess of 1,000
17 ppm DDT. The California EPA Department of Toxic Substances Control
18 regulations define material containing above 1 ppm total DDT as
19 regulated hazardous waste.

20
21 28. During the period of the Montrose manufacturing operations at
22 20201 Normandie Avenue, the 20201 Normandie Avenue property was
23 owned by Stauffer Chemical Company.

24
25 29. From at least 1954 until 1963, Stauffer Chemical Company owned
26 and operated a lindane (gamma BHC) production plant at the 20201
27 Normandie Avenue property. The Stauffer BHC operations were the

1 only such operations in the Los Angeles area.

2
3 30. Beta BHC is a waste product from the production of gamma BHC
4 and is a hazardous substance.

5
6 31. In sample results reported in the Draft Final Remedial
7 Investigation Report for the Montrose Chemical Superfund Site, Beta
8 BHC was found: 1) at the 20201 Normandie Avenue property at one
9 location at 86 parts per billion (ppb), and 2) in the stormwater
10 pathway immediately adjacent to the 20201 Normandie Avenue property
11 at levels up to 3.5 ppm.

12
13 32. In March 1994, EPA received analytical results of shallow soil
14 samples taken at the Montrose CERCLA Removal Site. Soil samples
15 were analyzed for alpha, beta, delta and gamma BHC. Beta BHC was
16 found in two of these soil samples at 250 ppb and 22 ppb. No gamma
17 BHC (the pesticide Lindane) was detected in any of the soil
18 samples.

19
20 33. Based on the preceding statements of fact, EPA believes that
21 the DDT contaminated soil found at the Montrose CERCLA Removal Site
22 originated at the Montrose DDT plant property located at 20201
23 Normandie Avenue and has come to be located at the Montrose CERCLA
24 Removal Site.

25
26 V. CONCLUSIONS OF LAW AND DETERMINATIONS

1 Based on the Findings of Fact and Administrative Record for the
2 Montrose CERCLA Removal Site, EPA has determined that:

3
4 1. The Montrose Chemical Superfund Site is a "facility" as defined
5 by section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

6
7 2. DDT is a "hazardous substance" as defined by section 101(14) of
8 CERCLA, 42 U.S.C. § 9601(14). Beta BHC is a "hazardous substance"
9 as defined by section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

10
11 3. Respondent is a "person" as defined by section 101(21) of
12 CERCLA, 42 U.S.C. § 9601(21).

13
14 4. Respondent is liable, under section 107(a)(1-3) of CERCLA, 42
15 U.S.C. § 9607(a)(1-3), for all response costs incurred by the
16 United States with respect to the Montrose Chemical Superfund Site,
17 including but not limited to the Montrose CERCLA Removal Site.

18
19 5. The conditions described in the Findings of Fact above
20 constitute an actual or threatened "release" of a hazardous
21 substance from the facility, as defined by section 101(22) of
22 CERCLA, 42 U.S.C. § 9601(22).

23
24 6. The conditions which were present at the Montrose CERCLA
25 Removal Site prior to the initiation of the time critical removal
26 action (authorized on March 24, 1994) constituted or may have
27 constituted an imminent and substantial endangerment to public

1 health, welfare or the environment.

2
3 7. If not properly excavated, treated, and disposed of, the DDT
4 contaminated soil (as defined in paragraph III. 3. of this Order)
5 may present an imminent and substantial endangerment to public
6 health, welfare or to the environment. Therefore, the removal
7 actions required by this Order are necessary to protect the public
8 health, welfare or the environment and are not inconsistent with
9 the NCP and CERCLA.

10
11 8. The DDT contaminated soil, as defined in paragraph III. 3., is
12 a listed RCRA waste pursuant to 40 C.F.R. Section 261. 33(d).

13
14 9. The DDT contaminated soil, as defined in paragraph III. 3.,
15 must be treated prior to land disposal as required by 40 C.F.R.
16 Part 268.

17 VI. ORDER

18
19 Based on the Foregoing Findings of Fact, Conclusions of Law,
20 Determinations, and the Administrative Record for the Montrose
21 CERCLA Removal Site, EPA hereby orders that Respondent comply with
22 the following provisions and perform the following actions:

23 24 1. Notice of Intent to Comply

25 Respondent shall notify EPA in writing, within two calendar days
26 after the effective date of this Order, of Respondent's intent to
27 comply with this Order. Failure by Respondent to provide such

notification within this time period shall be a violation of this Order by Respondent.

2. Designation of Contractor and Project Coordinator

Respondent shall itself perform the removal actions required by this order or shall retain contractors to perform the removal actions. Respondent shall notify EPA of Respondent's qualifications or the names and qualifications of such contractors or subcontractors within 3 calendar days of the effective date of this Order. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondent or Respondent's choice of itself to do the removal action. If EPA exercises this right of disapproval, Respondent shall notify EPA that it has retained a different contractor or subcontractor or notify EPA that it will conduct the removal action itself within 2 business days following EPA's disapproval.

Within two calendar days after the effective date of this Order, Respondent shall designate a Project Coordinator who shall be responsible for the administration of all of the Respondent's actions required by the Order. Respondent shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA. EPA retains the right to disapprove of any Project Coordinator named by Respondent. If EPA disapproves of a named Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, qualifications and telephone number within two business

1 days following EPA's disapproval.

2
3 EPA has designated Jim Vreeland of the Region 9 Superfund
4 Enforcement Branch as its On-Scene Coordinator (OSC) for removal
5 activities in regard to the Montrose CERCLA Removal Site.
6 Respondent shall direct all submissions required by this Order to
7 the OSC at U.S. EPA, Region 9, H-7-1, 75 Hawthorne Street, San
8 Francisco, CA 94105. Mr. Vreeland's telephone number is (415) 744-
9 2395.

10
11 3. Work to be Performed

12
13 On March 29, 1995, the EPA Region 9 Division Director signed an
14 Action Memorandum Amendment to continue and complete the time-
15 critical removal action involving the excavation and off-site
16 disposal of DDT contaminated soil at the Montrose CERCLA Removal
17 Site.

18
19 Respondent shall perform the following portion of this authorized
20 removal action: 1) arrange for the excavation of all remaining DDT
21 contaminated soil from the Montrose CERCLA Removal Site, 2) arrange
22 for the transportation of the excavated DDT contaminated soil by
23 licensed hazardous waste transporters, 3) arrange for the treatment
24 of the DDT contaminated soil, excavated from the Montrose CERCLA
25 Removal Site, at a permitted RCRA treatment facility as required by
26 the RCRA treatment requirements and standards contained in 40
27 C.F.R. Part 268, and 4) arrange for the disposal of the treated DDT

1 contaminated soil at a RCRA permitted land disposal facility, 5)
2 arrange for the backfilling, grading and restoration of excavated
3 areas, 6) if DDT contaminated soil is confirmed to be present
4 beneath an existing structure, Respondent, with prior permission of
5 the residents/owners (and any other persons holding an interest,
6 including a security interest in such property), shall arrange to
7 move or demolish that structure and return or rebuild the structure
8 following completion of backfilling operations. The excavation,
9 transportation, treatment and disposal of the DDT contaminated soil
10 shall be conducted by Respondent in accordance with the EPA
11 approved workplan and all applicable state and federal laws
12 including but not limited to state and federal laws concerning RCRA
13 regulated hazardous waste.

14 15 3.1 Work Plan and Implementation

16
17 Within fourteen calendar days after the effective date of this
18 Order, the Respondent shall submit to EPA for approval a draft Work
19 Plan for performing the actions set forth in Section 3.0 and as
20 further described in the Action Memorandum Amendment (dated March
21 28, 1995 and signed on March 29, 1995). The draft Work Plan shall
22 provide a description of, and a proposed schedule for, the action
23 required by this Order.

24
25 EPA may approve, disapprove, require revisions to, or modify the
26 draft Work Plan. If EPA requires revisions, Respondent shall
27 submit a revised Work Plan within three calendar days of receipt of

1 EPA's notification of the required revisions. Respondent shall
2 implement the Work Plan as finally approved in writing by EPA and
3 shall implement the Work Plan in accordance with the schedule
4 approved by EPA. Once approved by EPA, the Work Plan, the
5 schedule, and any modifications approved by EPA shall be fully
6 enforceable under this Order.

7
8 3.2 Quality Assurance and Sampling
9

10 Any sampling and analyses of the DDT contaminated soil performed by
11 Respondent shall conform to EPA direction, approval, and guidance
12 regarding sampling, quality assurance/quality control (QA/QC), data
13 validation, and chain of custody procedures. Respondent shall
14 ensure that the laboratory used to perform the analyses
15 participates in a QA/QC program that complies with the appropriate
16 EPA guidance.

17
18 Upon request by EPA, Respondent shall have such a laboratory
19 analyze samples submitted by EPA for quality-assurance monitoring.
20 Respondent shall provide to EPA the QA/QC procedures followed by
21 all sampling teams and laboratories performing data collection
22 and/or analysis.

23
24 Respondent shall notify EPA not less than two business days in
25 advance of any sample collection activity. EPA shall have the
26 right to take any additional samples that it deems necessary. Upon
27 request by EPA, Respondent shall allow EPA or its authorized

1 representatives to take split and/or duplicate samples of any
2 samples collected by Respondent while performing actions under this
3 Order.

6 3.3 Reporting

8 Respondent shall submit a written progress report to EPA concerning
9 actions undertaken pursuant to this Order every seventh calendar
10 day after the date of receipt of EPA's approval of the Work Plan.
11 During excavation activities, Respondent shall transmit daily
12 written progress reports to EPA by facsimile covering the prior
13 days activities. These progress reports shall no longer be
14 required after the work described in Section 3.0 has been completed
15 and the completion of such work has been confirmed to EPA in a
16 written progress report. The written progress reports shall
17 describe all significant developments during the preceding seven
18 days, including the actions performed, problems encountered,
19 analytical data received, developments anticipated during the next
20 reporting period, a schedule of work to be performed, and planned
21 resolutions of present or anticipated problems.

23 3.4 Final Report

25 Within thirty calendar days after completion of all actions
26 required under this Order, Respondent shall submit for EPA review
27 a final report summarizing the actions taken by Respondent to

1 comply with this Order. The final report shall at a minimum comply
2 with the requirements set forth in Section 300.165 of the National
3 Contingency Plan entitled "OSC Reports." See 40 C.F.R. § 300.165.
4 The final report shall include a good faith estimate of the total
5 costs or a statement of the actual costs incurred in complying with
6 this Order, a listing of quantities and types of materials removed,
7 a presentation of all analytical results for sampling conducted by
8 Respondent with respect to compliance with this Order, and
9 accompanying appendices containing all relevant documentation
10 generated by Respondent in complying with this Order (e.g.,
11 manifests, invoices, bills, contracts and permits). The final
12 report shall also include the following certification signed by a
13 person who supervised or directed the preparation of that report:

14
15 Under penalty of law, I certify that to the best of my
16 knowledge, after appropriate inquiries of all relevant
17 persons involved in the preparation of the report, the
18 information submitted is true, accurate, and complete.

19 I am aware that there are significant penalties for submitting
20 false information, including the possibility of fine and
21 imprisonment for knowing violations.
22

23 4. Record Retention, Documentation, Availability of Information
24

25 Respondent shall preserve all documents and information relating to
26 work performed under this Order, or related to the hazardous
27 substances found in the DDT contaminated soil, for ten years

1 following the completion of all actions required under this Order.
2 At the end of this ten year period and thirty days before any
3 document or information is destroyed, Respondent shall notify EPA
4 that such documents or information are available to EPA for
5 inspection, and upon request, shall provide the originals or copies
6 of such documents and information to EPA. In addition, Respondent
7 shall provide documents and information retained under this Section
8 at any time before the expiration of the ten year period following
9 the written request of EPA.

10
11 Respondent may assert a business confidentiality claim pursuant to
12 40 C.F.R. § 2.203(b) with respect to part or all of any information
13 submitted to EPA pursuant to this Order, provided such claim is
14 allowed by section 104(e)(7) of CERCLA, 42 U.S.C. §9604(e)(7). If
15 no such claim accompanies the information when it is received by
16 EPA, EPA may make it available to the public without further notice
17 to Respondent.

18
19 5. Compliance With Other Laws

20
21 Respondent shall perform all actions required pursuant to this
22 Order in accordance with all applicable local, state and federal
23 laws including but not limited to state and federal laws concerning
24 the transportation, storage, treatment and disposal of RCRA
25 regulated hazardous waste.

26
27 6. Emergency Response and Notification of Releases

1 If any incident during the actions conducted pursuant to this Order
2 causes or threatens to cause an additional release of hazardous
3 substances or an endangerment to the public health, welfare, or to
4 the environment, the Respondent shall immediately take all
5 appropriate action. The Respondent shall take these actions in
6 accordance with all applicable provisions of this Order and all
7 applicable state and federal laws in order to prevent, abate or
8 minimize such release or endangerment caused or threatened by the
9 release. Respondent shall also immediately notify the OSC or in
10 the event of his unavailability, shall notify the Regional Duty
11 Officer (415) 744-2000 of the incident. In the event of any
12 release, the Respondent shall also notify the National Response
13 Center at (800) 424-8802.

14
15 Respondent shall submit a written report to EPA within seven days
16 after a release, setting forth the events that occurred and the
17 measures taken or to be taken to mitigate any release or
18 endangerment caused or threatened by the release and to prevent the
19 reoccurrence of such a release. This reporting requirement is in
20 addition to, not in lieu of, reporting under CERCLA section 103(c),
21 42 U.S.C. § 9603(c) and section 304 of the emergency Planning and
22 Community Right to Know Act of 1986, 42 U.S.C. Sections 11001 et
23 seq.

24 25 VII. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

26
27 The OSC shall be responsible for overseeing the proper and complete
28

1 implementation of this Order. The OSC shall have the authority
2 vested in an OSC by the NCP, 40 C.F.R. § 300.120, including but not
3 limited to the authority to halt, conduct, or direct any action
4 required by this Order, or to direct any other removal action
5 undertaken by EPA or Respondent at the Montrose CERCLA Removal Site
6 or with respect to the DDT contaminated soil.

7
8 EPA and Respondent shall have the right to change their designated
9 OSC or Project Coordinator. EPA or Respondent shall notify the
10 other party of such a change two calendar days before such a change
11 is made. Notification shall be made by written notice.

12
13 **VIII. ENFORCEMENT: PENALTIES FOR NONCOMPLIANCE**

14
15 Violation of any provision of this Order may subject Respondent to
16 civil penalties of up to \$25,000 per violation per day, as provided
17 in section 106(b)(1) of CERCLA, 42 U.S.C. § 9606(b)(1). Respondent
18 may also be subject to punitive damages in an amount up to three
19 times the amount of any cost incurred by the United States as a
20 result of such violation, as provided in section 107(c)(3) of
21 CERCLA, 42 U.S.C. § 9607(c)(3). Should Respondent violate this
22 Order or any portion hereof, EPA may carry out the required actions
23 unilaterally, pursuant to section 104 of CERCLA, 42 U.S.C. 9604,
24 and/or may seek judicial enforcement of this Order pursuant to
25 section 106 of CERCLA, 42 U.S.C. § 9606.

26
27 **IX. RESERVATION OF RIGHTS**

1 Except as specifically provided in this Order, nothing herein shall
2 limit the power and authority of EPA or the United States to take,
3 direct, or order all actions necessary to protect public health,
4 welfare, or the environment or to prevent, abate, or minimize an
5 actual or threatened release of hazardous substances, pollutants or
6 contaminants, hazardous or solid waste on, at or from the Montrose
7 Chemical Superfund Site (including but not limited to the Montrose
8 CERCLA Removal Site), the proposed Del Amo Pits Superfund Site, or
9 any other area or location. Further, nothing herein shall prevent
10 EPA from seeking legal or equitable relief to enforce the terms of
11 this Order, from taking other legal or equitable action as it deems
12 appropriate and necessary, or from requiring Respondent to perform
13 additional activities pursuant to CERCLA or any other applicable
14 law. EPA specifically reserves the right to pursue all response
15 costs incurred or damages and penalties claimed by the United
16 States in relation to the Montrose Chemical Superfund Site and any
17 related site or facility in the currently filed action United
18 States v. Montrose Chemical (CV 90-3122-AAH) or in any other action
19 in any other proper forum.

20
21 X. OTHER CLAIMS
22

23 By issuance of this Order, the United States and EPA assume no
24 liability for injuries or damages to persons or property resulting
25 from any actions or omissions of Respondent. The United States,
26 including but not limited to EPA, shall not be deemed a party to
27 any contract entered into by Respondent in carrying out actions

1 pursuant to this Order.

2
3 This Order does not constitute a pre-authorization of funds under
4 section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2).

5
6 Nothing in this Order shall constitute a satisfaction of or release
7 from any claim or cause of action against the Respondent or any
8 person not a party to this Order for any liability such person may
9 have under CERCLA, or other statutes or common law, including but
10 not limited to any claims of the United States for costs, damages
11 and interest under section 106(a) and 107(a) of CERCLA, 42 U.S.C.
12 § 9606(a) and § 9607(a).

13
14 **XI. MODIFICATIONS**

15
16 Modifications to any plan or schedule may be made in writing by the
17 OSC or at the OSC's oral direction. If the OSC makes an oral
18 modification, it will be memorialized in writing within two
19 business days; provided, however, that the effective date of the
20 modification shall be the date of the OSC's oral direction. The
21 rest of the Order, or any other portion of the Order may only be
22 modified in writing by the EPA Director of the Region 9 Hazardous
23 Waste Management Division. If Respondent seeks permission to
24 deviate from any approved plan or schedule, Respondent's Project
25 Coordinator shall submit a written request and rationale for such
26 request to EPA for approval. No informal advice, guidance,
27 suggestion, or comment by EPA regarding reports, plans,

1 specifications, schedules, or any other writing submitted by
2 Respondent shall relieve the Respondent of its obligation to obtain
3 formal approval as may be required by this Order, and to comply
4 with all requirements of this Order unless it is formally modified.

5
6 **XII. NOTICE OF COMPLETION**
7

8 When EPA determines, after EPA's review of the Final Report, that
9 all removal actions have been fully performed in accordance with
10 this Order, with the exceptions of any continuing obligations
11 required by this Order, EPA will provide a notice of completion to
12 Respondent. If EPA determines that all actions have not been
13 completed in accordance with this Order, EPA will notify the
14 Respondent of the deficiencies and require that the Respondent
15 correct such deficiencies.

16
17 **XIII. ACCESS TO ADMINISTRATIVE RECORD**
18

19 The Administrative Record supporting the removal action at the
20 Montrose CERCLA Removal Site is available for review. The
21 Administrative Record is available for review at:

22 U.S. EPA Region 9, Superfund Records Center

23 95 Hawthorne Street

24 San Francisco, CA 94105

25
26 Civic Center Library

27 3031 Torrance Blvd.
28

1 Torrance, CA 90503

2
3 Carson Public Library
4 151 East Carson Street
5 Carson, CA 90745
6

7 **XIV. OPPORTUNITY TO CONFER**
8

9 Within two calendar days after the issuance of this Order,
10 Respondent may request a conference with EPA. Any such conference
11 shall be held within seven calendar days after the date on which
12 the Order was issued unless extended by agreement of the parties.
13 At any conference held pursuant to the request, Respondent may
14 appear in person or be represented by an attorney or other
15 representative.
16

17 If a conference is held, Respondent may present any information,
18 arguments or comments regarding this Order. Regardless of whether
19 a conference is held, Respondent may submit any information,
20 arguments or comments in writing within seven calendar days
21 following the conference, or within 10 calendar days following the
22 issuance of the Order if no conference is requested. This
23 opportunity to confer is not an evidentiary hearing, does not
24 constitute a proceeding to challenge this Order, and does not give
25 Respondents a right to seek review of this Order. A request for
26 a conference, or any written submittal under this paragraph shall
27 be directed to John J. Lyons, Assistant Regional Counsel, at (415)

1 744-1312, U.S. EPA, Office of Regional Counsel RC 3-2, 75 Hawthorne
2 Street, San Francisco, CA 94105.

3
4 **XV. SEVERABILITY**

5 If a court issues an order that invalidates any provision of this
6 Order or finds that Respondent has sufficient cause not to comply
7 with one or more provisions of this Order, Respondent shall remain
8 bound to comply with all provisions of this Order not invalidated
9 or determined to be subject to a sufficient cause defense by the
10 court's order.

11
12 **XVI. EFFECTIVE DATE**

13 This Order shall be effective at 5 p.m. on June 9, 1995. If a
14 conference is requested by Respondent pursuant to Section XIV.,
15 this Order shall be effective on the calendar day following the
16 conference unless modified in writing by EPA.

17
18 **IT IS SO ORDERED**

19
20 BY: Jeff Zelikson DATE: 6-7-95

21 *for* Jeff Zelikson

22 Director, Hazardous Waste Management Division

23 United States Environmental Protection Agency, Region 9

24
25 **EFFECTIVE DATE: 5 p.m JUNE 9, 1995**